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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/868,875	09/18/2001	Muditha Pradeep Dantanarayana	P 281479	1264

909 7590 10/02/2002

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EXAMINER

MENDOZA, MICHAEL G

ART UNIT	PAPER NUMBER
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3761

DATE MAILED: 10/02/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/868,875

Applicant(s)

DANTANARAYANA, MUDITHA
PRADEEP

Examiner

Michael G. Mendoza

Art Unit

3761

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 September 2001.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5, 7 and 8 is/are rejected.
- 7) ☒ Claim(s) 6 and 9 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

Specification

1. This application does not contain an abstract of the disclosure as required by 37 CFR 1.72(b). An abstract on a separate sheet is required.

Claim Objections

2. Claims 6 and 9 are objected to under 37 CFR 1.75(c) as being in improper form because a multiple dependent claim cannot depend on another multiple dependent claim (claim 4). See MPEP § 608.01(n). Accordingly, the claims 6 and 9 have not been further treated on the merits.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1, 2, 5, 7, and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Thompson 4,239,039.
5. As to claim 1, Thompson teaches an apparatus for supplying breathable gas, the apparatus including: a relatively rigid external housing; at least one noise producing component internal the housing; and an enclosure substantially sealed around the noise producing component(s) (see figures). It should be noted that Thompson fails to teach a thin flexible enclosure. However, it would have been obvious to one of ordinary skill in the art to make the enclosure of Thompson thin because the dimensions of the

enclosure is a mere design choice and that any dimension would perform equally well. Furthermore, the applicant has not disclosed that the specific type of dimensions solves any stated problems or is for any particular purpose and it appears that the invention would perform equally well the dimensions taught by Thompson.

6. As to claim 2, Thompson teaches the apparatus as claimed in claim 1. It should be noted that Thompson fails to specifically teach wherein the flexible enclosure is produced from plastic material. However, it is well known in the respirator art to use plastic for producing enclosures. Therefore it would have been obvious to one of ordinary skill in the art to make the enclosure of Thompson of plastic for its ability to resist corrosion.

7. As to claim 5, Thompson teaches the apparatus as claimed in claim 4, wherein the opening is sealable (see figures, col. 3, lines 54-56). Thompson teaches the sealing of the opening by the snug fit of the cylindrical air turbine with the intake portion of the housing. It should be noted that Thompson fails to teach wherein the opening is sealable by adhesive tape. However, the particulars of the sealing means are mechanical expedients.

8. As to claim 6, Thompson teaches the apparatus as claimed in any one of the preceding claims, wherein the enclosure includes one or more apertures to allow breathable gas into and out of the noise producing components (see figures).

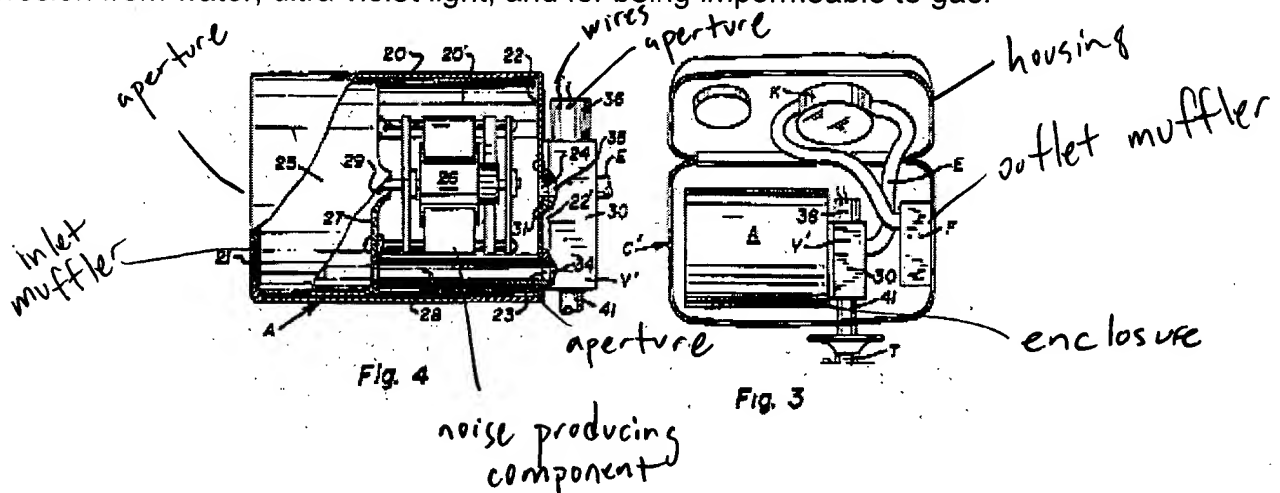
9. As to claim 7, Thompson teaches the apparatus as claimed in claim 5, wherein the noise producing components include a blower, an inlet muffler and an outlet muffler (see figures), atmospheric air being drawn through the inlet muffler before entering the

blower and the resulting pressurized air passing through the outlet muffler after leaving the blower, and the enclosure includes a first aperture substantially sealable with respect to the exterior of the inlet of the inlet muffler and a second aperture substantially sealable with respect to the exterior of the outlet muffler.

10. As to claim 8, Thompson teaches the apparatus as claim in claim 7, wherein the enclosure includes a third aperture for passage of on or more wire for transmitting power or control signals to an electric motor and/or other electrical components, the third aperture being substantially sealable relative to the exterior of the wire(s).

11. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Thompson in view of MacGregor 5,996,578.

12. As to claim 3, Thompson teaches the apparatus as claimed in claim 2. It should be noted that Thompson fails to specifically teach wherein the plastic material is Cosmothene F221-1 or polyethylene. However, MacGregor does the use of polyethylene as a plastic material (col. 3, lines 13-16). Therefore it would have been obvious to one of ordinary skill in the art to use polyethylene for its ability to resist corrosion from water, ultra violet light, and for being impermeable to gas.



Contacts

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael G. Mendoza whose telephone number is (703) 305-3285. The examiner can normally be reached on Mon.-Fri. 8:00 a.m. - 5:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Aaron Lewis can be reached on (703) 308-0716. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 306-4520 for regular communications and (703) 306-4520 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0858.

MM

MM
September 23, 2002

Glenn

GLENN K. DAWSON
PRIMARY EXAMINER